

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK CITY DISTRICT COUNCIL OF  
CARPENTERS PENSION FUND, NEW YORK CITY  
DISTRICT COUNCIL OF CARPENTERS WELFARE  
FUND, NEW YORK CITY DISTRICT COUNCIL OF  
CARPENTERS VACATION FUND, NEW YORK CITY  
DISTRICT COUNCIL OF CARPENTERS ANNUITY FUND,  
NEW YORK CITY DISTRICT COUNCIL OF CARPENTERS  
APPRENTICESHIP, JOURNEYMAN RETRAINING,  
EDUCATIONAL AND INDUSTRY FUND, NEW YORK  
CITY DISTRICT COUNCIL OF CARPENTERS CHARITY  
FUND, UNITED BROTHERHOOD OF CARPENTERS AND  
JOINERS OF AMERICA FUND and THE NEW YORK CITY  
AND VICINITY CARPENTERS LABOR-MANAGEMENT  
CORPORATION, by MICHAEL J. FORDE, and PAUL  
O'BRIEN, as TRUSTEES, and MICHAEL J. FORDE, as  
EXECUTIVE SECRETARY-TREASURER, DISTRICT  
COUNCIL FOR NEW YORK CITY AND VICINITY,  
UNITED BROTHERHOOD OF CARPENTERS AND  
JOINERS OF AMERICA,

08-CV-2001

Plaintiffs,

-against-

EASTLAND CONSTRUCTION, INC.,

Defendant.

-----X

ANSWER AND AFFIRMATIVE DEFENSES

Defendant Eastland Construction, Inc., (hereinafter "Defendant") by its attorneys, The Ziskin Law Firm, as and for its Answer and Affirmative Defenses, alleges as follows:

01. Denies each and every allegation set forth in paragraph numbered "1" of the Complaint.

02. With regard to paragraphs numbered "2," "3" and "4" of the Complaint Defendants assert that such allegations contain legal conclusions which are for consideration of the Court.

03. Denies knowledge and information sufficient to form a belief as to each and every allegation set forth in paragraphs numbered "5" and "6" of the Complaint and assert that such allegations contain legal conclusions which are for consideration of the Court.

04. Admits each and every allegation set forth in paragraphs numbered "7" and "8" of the Complaint.

05. Denies each and every allegation set forth in paragraphs numbered "9," "10," "11," "12," "13," "14," and "15" of the Complaint.

**AFFIRMATIVE DEFENSES**

**AS AND FOR A FIRST SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE**

06. Plaintiffs have failed to set forth a cause of action upon which relief may be granted.

**AS AND FOR A SECOND SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE**

07. Plaintiffs are bound by the doctrine of accord and satisfaction with regard to their allegation respecting unpaid contributions as set forth in the complaint.

**AS AND FOR A THIRD SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE**

08. Plaintiffs are bound by the doctrine of laches from claiming unpaid contributions to the various benefit funds, as alleged in the complaint.

**AS AND FOR A FOURTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE**

09. Plaintiffs are bound by the doctrine of estoppel from asserting unpaid contributions for benefits as alleged in the complaint.

**AS AND FOR A FIFTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE**

10. Plaintiffs have received full payment for all alleged contributions that are claimed to be due and owing as set forth in the complaint.

**AS AND FOR A SIXTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE**

11. Plaintiffs have received all documents required to be produced at the direction of the arbitrator which are in the possession of the Defendant.

12.

WHEREFORE, it is respectfully urged that the complaint be dismissed in its entirety, together with costs and attorneys' fees.

Dated: Commack, New York  
March 24, 2008

The Ziskin Law Firm, LLP

By:

Suzanne Harmon Ziskin (SHZ-5180)  
Attorneys for Defendant  
Office and PO Address  
6268 Jericho Turnpike, Ste 12A  
Commack, New York 11725  
(631) 462-1417

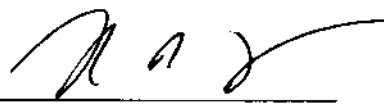
AFFIDAVIT OF SERVICE

STATE OF NEW YORK)  
COUNTY OF SUFFOLK)

RICHARD B. ZISKIN, being duly sworn, deposes and says:

I am not a party to the action, am over eighteen years of age, and reside at Smithtown, New York. On March 24, 2008, I served a true copy of Defendants' Answer and Affirmative Defenses in the following manner: by mailing same in a sealed envelope, with postage pre-paid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addresses as indicated below:

O'Dwyer & Bernstein, LLP  
52 Duane Street  
New York, NY 10007  
Att: Andrew Grabois, Esq.



RICHARD B. ZISKIN

Sworn to before me this  
24<sup>th</sup> day of March, 2008

Notary Public

**SUZANNE H. ZISKIN**  
Notary Public, State of New York  
No. 02ZI6007115  
Qualified in Suffolk County  
Commission Expires 5/18/10